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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,333	12/12/2001	Thomas R. Tudor	SEA-147-D	4153

7590 09/16/2002

ATTN: Andrew R. Basile
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,333

Applicant(s)

Tudor et al.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 6, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-18 and 20-22 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Aug 6, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. The proposed drawing correction filed on August 6, 2002 has been approved.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites, in part, "an inner conical nozzle surface extending from the annular shoulder". This language is not found in the originally filed specification. Since the originally filed disclosure does not teach one what this language implies, such term is considered to be new matter. Furthermore, note paragraph 0034.1, line 18.

3. Claims 1, 4, 9 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims recite, in part, a "monolithic" tube member and a "monolithic" insert. This term is not found in the originally filed specification. Since the originally filed disclosure does

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not teach one what this term implies, such term is considered to be new matter.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6 and 21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Brennan et al.

The Brennan et al. (Brennan) reference discloses an apparatus comprising: a "monolithic" tube member 16 including a nozzle-retaining annular shoulder surface (receiving 12); a

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"monolithic" insert 12 including an aperture 14; and a static mixer 26, as claimed.

6. Claims 1-6, 8-18 and 20-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brennan, Keller et al. '150 and Miller.

The Brennan reference discloses an apparatus comprising: a "monolithic" tube member 16 including a nozzle tip portion 18 having a shoulder (supporting 26) and conical nozzle surface (Fig. 3A), and a main body 20; and an insert 12 including a conical surface (Fig. 3B). Therefore, Brennan teaches all elements set forth in claim 1 except for the provision of stepped reductions on the tube member and a flange on the insert.

Although the tip portion of the Brennan tube member does not include stepped reductions, as claimed, attention is directed to the Keller et al. '150 (Keller) reference which discloses an analogous tube member which further includes a tip portion 18 having stepped reductions. Therefore, in consideration of Keller, it would have been obvious to one of ordinary skill in the art to associate stepped reductions with the Brennan tube member in order to facilitate length adjustment.

Although the insert of the Brennan tube member does not include a flange, as claimed, attention is directed to the Miller reference which discloses an analogous tube member 2 which

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further includes a tip insert 40 having a flange 43. Therefore, in consideration of Miller, it would have been obvious to one of ordinary skill in the art to associate a flange with the Brennan insert in order to facilitate securement.

Re claim 2, Miller further teaches extending the insert beyond an end of the tube member. Re claim 3, Miller further yet teaches provision of an angular cut surface (at 46) associated with the insert. Re claim 5, Miller still further yet teaches provision of a cylindrical passage portion (Fig. 4). Re claim 6, Brennan discloses a static mixer 26.

7. Applicant's arguments with respect to claims 1, 4, 9 and 14 have been considered but are moot in view of the new ground(s) of rejection.

8. The grounds of rejection have been reconsidered in light of applicant's arguments, and are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire

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on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506 who is most easily reached Tuesday through Thursday.



ROBERT M. FETSUGA
PRIMARY EXAMINER
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rmf
September 11, 2002